



An
Bord
Pleanála

Inspector's Report ABP-317937-23

Development	Demolition of existing buildings, construction of 34 apartments and all associated site works.
Location	Arklow Shipping Premises, North Quay, Arklow, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	23381
Applicant(s)	Arklow Shipping UC
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Andrew Byrne (on behalf of Arklow Marina Village Management Limited)
Observer(s)	None
Date of Site Inspection	18 th October 2024
Inspector	Emma Nevin

1.0 Site Location and Description

- 1.1. The appeal site (measuring 0.19 ha.) is located on the North Quay in Arklow town centre. The site comprises an existing three storey office building with single storey outbuildings along the rear site boundary.
- 1.2. The site is bounded to the west and south by the Marina Village development, to the north by the Arklow Sailing Club, and to the east by the North Quay Road. The site adjoins the Avoca River to the west.
- 1.3. The site is open to the roadside boundary with a chain-link boundary along North Quay Road. There is planting and fencing and trees along the side and rear boundaries.

2.0 Proposed Development

- 2.1. The development comprises the demolition of the existing office building and single storey outbuilding on site with an overall floor area of 376 sq. m. and the construction of a 5-storey residential apartment block consisting of 34 no. units (total floor area 2,459 sq. m.).
- 2.2. The proposed units consist of 14 no. one bedroom apartments; and 20 no. two bedrooms apartments. Each unit is served by a balcony on the southwest façade.
- 2.3. In terms of design the proposed building has a flat, green roof and brick/glazing to the external elevations.
- 2.4. Two new entry/exit points are proposed off North Quay Road.
- 2.5. Associated works include ESB substation and switch room, water storage areas, 34 no. car parking spaces, and bicycle parking and hard and soft landscaping throughout the scheme.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission, following further information request, on 18th August 2023, subject to 8 conditions, which included the following:

- Conditions 2 & 3 relation to financial contributions and security bond.
- Condition 5 relates to occupation of the units.
- Condition 6 relates to a management company.
- Condition 7 relates to construction/demolition management plan.
- Condition 8 related to site development works.
- Condition 10 related to electric charging spaces.
- Condition 15 relates to planting and landscaping scheme for the site.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports dated 4th June 2023 and 10th August 2023 have been provided.
- 3.2.2. This planning application was assessed under the Wicklow County Development Plan, 2022 – 2028.
- 3.2.3. The original planning report considered it necessary to seek further information on the following items:
- To submit further Information to support the building design, with specific reference to the prevailing building heights on adjoining lands, the location of the proposed development and Urban Development and Building Heights Guidelines.
 - In relation to surface water disposal, the applicant was requested to submit full site-specific details of Petrol Interceptors and/or bio-retention areas which should be provided to account for road runoff prior to any receiving waters.
 - To identify how the applicant intends to meet address the Climate change allowances by vulnerability and flood of Strategic Flood Risk Assessment of the County Development Plan, 2022-2028 and the requirements of the Greater Dublin Strategic Drainage Study in the submitted site specific flood risk assessment report.
- 3.2.4. The planners report concluded that the further information dealt with the issues raised and the development is in accordance with the Wicklow County Development Plan 2022 – 2028, subject to 16 no. conditions.

3.2.5. Other Technical Reports

Municipal District Engineer: Report received stating no objection subject to conditions.

Environmental and Water Services: Report received requesting further information.

Housing: Report received stating that the Part V proposal is acceptable.

3.3. Prescribed Bodies

3.3.1. The Planning Authority indicated that the following prescribed bodies were consulted.

- Uisce Eireann: No report received by the local authority.
- Transport Infrastructure Ireland: Report received stating no objection.

3.4. Third Party Observations

3.4.1. Twelve third party submissions were received, the issues raised can be summarised as follows:

- Building Height.
- Density - Number of units excessive.
- Parking spaces insufficient and traffic implication.
- Traffic hazard.
- Flooding.
- Insufficient photomontage.
- Public consultation.
- Design.
- Community Cultural Space.
- Overlooking /loss of privacy/loss of daylight.
- Landscaping, planting, and boundary walls.
- Obstruction of view.

- Lack of demographic research.
- In event of a grant a comprehensive site construction management plan and hours of operation should be provided.
- Wind turbulence.
- Devaluation of property.
- Out of character.
- Proximity of building to other buildings.
- Noise and disruption.

3.4.2. Following the submission of revised public notices and following a period of further consultation, one additional observation was received. The issues raised can be summarised as follows:

- Blocking of sunlight.
- Loss of privacy.
- Devalue marina apartments.
- Out of character with marina village in terms of height and design.
- Blocking view of river.
- Increased traffic volumes.

4.0 Planning History

Subject Site:

06/610110 – Permission was granted by Wicklow County Council on the 20th November 2006 to erect store and offices in the backyard of existing office building.

03/610046 - Permission was granted by Wicklow County Council on the 3rd July 2003 for the erection of single storey offices at the rear of existing offices.

Adjacent Site:

98/610054: Permission granted by Wicklow County Council for Marina, consisting of 28 Houses and 124 Apartments, and outline permission granted for restaurant, ship

changers & facilities building at North Quay (no decision date available on Council website).

5.0 Policy Context

5.1. Wicklow County Development Plan 2022 – 2028

5.1.1. Chapter 3 - Core Strategy

5.1.2. In particular the Core Strategy shall address:

- provide details of land zoned for residential use or a mixture of residential and other uses,
- how the zoning proposals accord with national policy that development of land shall take place on a phased basis,
- set out a settlement hierarchy and provide details of any policies or objectives for the time being of the Government or any Minister of the Government in relation to national and regional population targets that apply to towns and cities referred to in the hierarchy, and to the areas or classes of areas not included in the hierarchy,

5.1.3. Section 3.5 - Zoning Principles

- Compact Growth
- Delivery of Population and Housing Targets
- Higher Densities
- Sequential approach

5.1.4. Chapter 4 - Settlement Strategy

- Arklow is designated as a level 3 settlement (Self Sustaining Growth Town) in the County Development Plan.
- Housing Occupancy Controls

As 'As a 'Self-Sustaining Growth Town', the settlement should provide urban housing for people from across the County and region.

- Section 4.3 - Settlement Strategy objectives, of relevance are CPO 4.6.

5.1.5. Chapter 6 - Housing

- Section 6.4 - Housing Objectives

5.1.6. Chapter 12 - Sustainable Transportation

5.1.7. Chapter 13 - Water Services

5.1.8. Section 13.2 Water Services objectives

5.1.9. Chapter 14 - Flood Risk Management

5.1.10. The following is also of relevance:

- Appendix 1 – Development Design Standards.

5.2. Arklow and Environs Local Area Plan 2018 - 2024

5.2.1. I note that the Arklow and Environs Local Area Plan (LAP) 2018 - 2024 has expired, however the Council have commenced the review of the existing LAP and are at the pre-draft public consultation stage, which concluded earlier this year.

5.2.2. Under the LAP the site was zoned 'WZ' – "Waterfront", under the Arklow and Environs Local Area Plan, 2018 – 2024, with an objective "*to provide for the development and improvement of the waterfront zone, to facilitate the continuation of the existing employment, maritime and port uses and to promote and provide for residential and mixed- use development*".

Waterfront (WZ) - Uses include houses, apartments, residential open space, education, community facilities, retirement homes, nursing homes, childcare, health centres, guest house, bed and breakfast, home based economic activity, retail, restaurants, public house, hotels, parking, maritime uses, aquaculture, harbour uses, tourism uses, recreational uses, general and light industry, office uses, waste water treatment plant, utility installations and ancillary development and other residential uses in accordance with the CDP.

5.2.3. The residential development for Arklow states "To promote and facilitate the in-depth development of the waterfront zone, for mixed-use development with a high concentration of residential use subject to a high standard of design, layout and finish".

5.2.4. Chapter 3 - Residential Development

- Residential Zonings
- Waterfront Zone North (WZ) 300 units
- Waterfront Zone South (WZ) 500 units

5.2.5. Chapter 4

Residential Development Objectives

- H1 All new housing developments shall be required to accord with the housing objectives and standards set out in the Wicklow County Development Plan.
- H3 In order to make best use of land resources and services, unless there are cogent reasons to the contrary, new residential development shall be expected to aim for the highest density indicated for the lands. The Council reserves the right to refuse permission for any development that is not consistent with this principle.
- H6 To encourage in-fill housing developments, the use of under-utilised and vacant sites and vacant upper floors for accommodation purposes and facilitate higher residential densities at appropriate locations, subject to a high standard of design, layout and finish.

5.2.6. Chapter 5 - Key Areas

- Arklow's Waterfront Strategy
- Residential Development
- There could be c.11ha of vacant lands/buildings available in the waterfront area and a further 8.5ha of underutilised lands/buildings that may be available for redevelopment. Facilitating a relatively high density, assuming a plot ratio of 2.5, this area could have capacity for 4,800+ units. However, it is considered somewhat unrealistic to encourage this number of apartments here, hence for this LAP, and given the existing employment uses, and the amenity/leisure potential of some of these lands, this will be reduced to 800 units.

5.2.7. Arklow Waterfront Strategy Objectives

- WZ1 To support in-depth development of the Waterfront zone (WZ), for a mix of residential, commercial, employment, leisure and tourism uses. Applications for the development of such lands shall include a detailed survey of the existing site conditions, proposals for demolition and remediation of previous site activities and a management plan for the disposal of such materials.
- WZ2 In the Waterfront Zone to allow for high-density development (up to a plot ratio of (2.5:1) and up to 4 storeys in height along water frontages and 3 storeys elsewhere.
- WZ6 To require any new developments in the Waterfront Zone to meet a high standard of design that respects the unique historical, environmental, visual and recreational amenities of the area.
- WZ9 To require any new developments to be suitably set back from the water's edge and to provide public routes and places along waterfronts; to support the development of a footbridge across the entrance to south dock.
- WZ13 To facilitate the development of new opportunities for pedestrian and cycle links from the Waterfront to the town centre.

5.3. National Planning Framework (NPF)

- 5.3.1. The NPF provides an overarching policy and planning framework for the social, economic and culture development of the country. An important element of the growth strategy, intrinsic to the NPF, is securing compact and sustainable growth as it offers the best prospects for unlocking regional potential. The preferred approach for compact development is one which focuses on reusing previously developed 'brownfield' lands and development of infill sites and buildings. To this end the NPF requires at least 30% delivery of all new homes in settlements (outside of the 5 cities) to be within the existing built-up footprint (NPO 3(c)).

5.4. Regional Spatial and Economic Strategy (RSES) - Eastern and Midland Regional Assembly (EMRA)

- 5.4.1. The RSES sets out the strategic framework for the economic and spatial development of the Eastern and Midland Region up to 2031. The primary objective of the RSES is to support more sustainable settlement patterns that focus on compact growth, makes the most efficient use of land and infrastructure, and takes an integrated approach to development that provides employment opportunities and improvements to services alongside population and residential growth.

5.5. Section 28 Ministerial Guidelines

- 5.5.1. Having considered the nature of the proposal and the documentation on file, I am of the opinion that the directly relevant S28 Ministerial Guidelines are:

- Sustainable Residential Development and Compact Guidelines, (2024);
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2022).

The guidelines recognise that as well as being an overriding social issue, urban housing supply, especially the provision of apartments in cities and larger towns, is a critical strategic competitiveness issue that statutory Development Plans must address. For example, research work undertaken by the Department of Housing, with input from industry and construction professionals analysing the cost of housing delivery, confirms that in a given apartment scheme that includes a proportion of three-bedroom units, replacing these units to allow a larger number of one- and two-bedroom units would, contribute to greater scheme viability.

- Urban Development and Building Heights Guidelines (2018).

Other Relevant Guidance:

- Design Manual for Urban Roads and Streets (2013).

5.6. Natural Heritage Designations

5.6.1. The subject site is not located within a designated European Site. However, the closest such sites are:

- Buckroney-Brittas Dunes and Fen SAC, located approximately 4.9km to the north.
- Kilpatrick Sandhills SAC, located approximately 6.5km to the south.

5.7. EIA Screening

5.7.1. I refer the Board to the completed Form 1 and Form 2 in Appendix 1. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third-party appeal has been received from Andrew Byrne, on behalf of the Arklow Marina Village Management Limited. The grounds of appeal are summarised below:

- Object to the height of the proposed development at 5 storey's, which is disproportionate to the existing residential structures of Arklow Marina Village. Section 3.1.2 of the Development Plan is referred to in this regard.
- Issue with daylight.
- Overlooking.
- The removal of the line of sight to the river of the blocks of Tuskar Courtyard.
- The following should be considered during the permission application process
(i) Site Construction Management Plan, and (ii) Hours of Operation.

6.2. Applicant Response

6.2.1. A first party response to the appeal was received dated 2nd October 2023, prepared by the applicant's agent.

- The Wicklow County Development Plan 2022-2028 provides guidelines for building heights in urban areas. The proposed 5 storey building is acceptable having regard to the location of the site on the quays and the nearby 8,5 and 4 storey Bridgewater Scheme and the 3 storey plus pitch roof development at Marina Village.
- The proposal will make a positive contribution to the area, it will not be obtrusive.
- The building will provide an urban edge to the river and the introduction of residential use at this site will result in the passive surveillance of the public realm thus making the space more attractive to and improving pedestrian routes.
- The following policies outlined in Section 6.4 of the Development Plan are deemed relevant to the proposal CPO 6.17, and CPO 6.18 are referenced.
- The proposal will reinforce the character of this part of the quays which is evolving from post-industrial use and is in need of regeneration.
- The proposed building is set back from the nearest façade of Marina Village by c. 30m, and only secondary windows face towards the development with no balconies. Thus, the privacy of the adjoining development will be protected in the proposed design.
- The applicant refers to the "Daylight and Sunlight Assessment Report" submitted with the original application, which concluded that the proposed scheme has appropriate separation distance and density and will not overshadow the amenity area located centrally within the Marina Village perimeter blocks.
- There is an existing 3 storey building at this site, whilst the proposed development is larger in scale it is not disproportionate considering the sites

location. Furthermore, the third parties do not have rights to any particular view from a private dwelling.

- The issues in regarding Site Construction Management Plan is addressed by Condition No. 7 and will be fully adhered to.
- Condition No. 8 addressed construction hours, and the applicant is willing to adhere to this condition.
- The Board us urged to confirm the Planning Authority's Decision to issue a Notification of Decision to grant planning permission.

6.3. **Planning Authority Response**

None received.

6.4. **Observations**

None received.

7.0 **Assessment**

7.1. Having inspected the site and considered the contents of the appeal, I consider the main issues which arise in relation to this appeal are as follows:

- I. Principle of Development
- II. Building Height
- III. Impact on Adjoining Amenities
- IV. Construction Impact
- V. Appropriate Assessment, and
- VI. Other Matters.

7.2. **Principle of Development**

7.2.1. The site is zoned 'WZ' – "Waterfront", under the Arklow and Environs Local Area Plan, 2018 – 2024, with an objective "*to provide for the development and improvement of the waterfront zone, to facilitate the continuation of the existing*

employment, maritime and port uses and to promote and provide for residential and mixed- use development”.

The plan further states that under this zoning objective it is the Council’s intention “*to facilitate the provision of high quality new residential developments at appropriate high densities with excellent layout and design, well linked to the existing town centre, community facilities and water amenities. To provide an appropriate mix of house sizes, types, and tenures in order to meet household needs and to promote balanced communities”.*

7.2.2. I also highlight Development Plan guidance in relation to the development of Arklow within the Core Strategy and Settlement Strategy and the provisions of national guidance in relation to achieving compact growth targets and active land management to ensure land within existing settlements are utilised to their full potential.

7.2.3. Moreover, following my site inspection, I consider that the re-development of this site, to residential use will improve the public realm of the river front, and will allow for the regeneration of this site in the context of the North Quays.

7.2.4. Accordingly, residential development is permitted in principle under this zoning objective and therefore, I consider the principle of the proposed development to be acceptable.

7.3. Building Height

7.3.1. The appeal expresses concerns in relation to the proposed 5 storey building, which is considered completely disproportionate to the existing residential structures of Arklow Marina Village and recommends that the maximum height of the development should be three storeys which would be more in keeping with the character of the existing residential structures adjacent to the site. The appeal includes an extract titled Wicklow County Council Development Plan 2021-2027, Section 3.2.1 pertaining to Building Height.

7.3.2. I note that the applicable Development Plan is the Wicklow County Development Plan, 2022 – 2028 and the Arklow and Environs Local Area Plan 2018 – 2024.

7.3.3. As part of the local authority assessment of the proposed development, further information was requested seeking the applicant to justify the proposed height of the

apartment building. Following the further information response, the planner was satisfied that the proposed height was not excessive when read with the overall character of the Harbour Road, which included reference to the Bridgewater Development, which is some 8 stories at its highest point.

- 7.3.4. I reference the LAP objective WZ2 states that *“In the Waterfront Zone to allow for high-density development (up to a plot ratio of (2.5:1) and up to 4 storeys in height along water frontages and 3 storeys elsewhere”*. I also reference the current Development Plan which states, CPO 4.3 *“Increase the density in existing settlements through a range of measures including bringing vacant properties back into use, reusing existing buildings, infill development schemes, brownfield regeneration, increased building height where appropriate, encouraging living over the shop and securing higher densities for new development”*, and CPO 6.17 *“In accordance with the SPPR 1 of Urban Development and Building Heights Guidelines, Planning Authorities are required explicitly identify areas where increased building height will be actively pursued for redevelopment, regeneration and infill development to secure the objectives of the NPF and RSES”*.
- 7.3.5. I also reference the Urban Development and Building Height Guidelines for Planning Authorities (2018), Section 2.5 which states *“increased building height is a key factor in assisting modern placemaking and improving the overall quality of our urban environments”*, and Section 3.1 which states *“In relation to the assessment of individual planning applications and appeals, it is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility”*,
- 7.3.6. While I acknowledge that the proposed development is higher than that of the adjoining buildings within the immediate surroundings and notwithstanding the LAP objective WZ2, which references allowance for buildings up to 4 storeys along the waterfront, I reference the Development Plan and Urban Development and Building Height Guidelines, which allow for increased building heights which successfully integrate into the public realm. I also reference the Bridgewater Development, which has integrated successfully onto the quays, which is further west and northwest of the subject site. Having regard to the waterfront location and the proposed contemporary design of the proposed apartment development, I consider that the

proposed overall height of 17.1 metres, would be acceptable at this location and would enhance the character and public realm within the overall waterfront development. While the appellants scheme is lower in height, I do not consider that the proposed development, which is positioned to the west and north of the existing Marina Village Development, would detract from the visual or residential amenity of the existing development.

- 7.3.7. Therefore, in line with the view of the Planning Authority in their assessment, I consider that having regard to the location of the proposed building, the scale and design of the proposal, I am satisfied that the development can be successfully integrated into the waterfront at this location and will not have a negative impact on the adjoining visual amenities by reason of building height.

7.4. Impact on Adjoining Amenities

- 7.4.1. The grounds of appeal express concerns regarding the impact on the amenities of the adjoining residential structures of Arklow Marina Village, in respect of overlooking, impacts on daylight, and the complete removal of the line of sight of the river for existing residents.

Overlooking:

- 7.4.2. The proposed apartment building will have a larger footprint, will be of increased height and will be in residential use with associated fenestration serving the proposed apartment units. I note that the balconies proposed are located to the southwest façade of the building, overlooking the adjoining road and river beyond. The proposed building will address the existing Arklow Sailing Clubhouse and associated car park to the northwest, and the adjoining apartment development to the northwest, east and southeast. However, following site inspection, I acknowledge the appeal site is currently overlooked by the adjoining residential units at Marina Village. The Avoca River adjoins the appeal site to the south and west.
- 7.4.3. Appendix 3 of the current Development Plan Section 3.1.3 states “*Residential developments shall be so designed and constructed to ensure maximum privacy for residents;...A separation of 22m will normally be required above ground level between opposing windows serving private living areas (particularly bedrooms and living rooms)*”.

7.4.4. I also reference Section 5.3.1 Separation Distances of the 'Sustainable Residential Development and Compact Guidelines, (2024)', which state that, *"a requirement for a minimum separation of 22 metres between opposing upper floor rear windows has formed part of suburban housing design since the early 20th century. The standard does not account for modern methods of design and construction and the capability of modern computer-based design programmes to model outcomes in relation to sunlight, daylight, and privacy. Through the careful massing and positioning of blocks, positioning of windows and the integration of open space at multiple levels it is possible to achieve a high standard of residential amenity and good placemaking with separation distances of less than 22 metres. Separation distances should, therefore, be determined based on considerations of privacy and amenity, informed by the layout, design and site characteristics of the specific proposed development"*.

I also note SPPR1, which states that *"development plans shall not include an objective in respect of minimum separation distances that exceed 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units or apartment units above ground floor level. When considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces"*.

7.4.5. Separation distances of 23.44 metres to 31.34 metres are proposed from the proposed apartment building to the nearest adjoining residential units in Marina Village Development. A separation distance of 28 metres is proposed to the adjoining Sailing Club site. Having regard to the aforementioned separation distances, Development Plan and national guidance in this regard, and noting the existing arrangement at this site, I do not consider that the proposed development would result in undue overlooking or loss of privacy of the adjoining residential units in the Marina Village development.

Overshadowing:

- 7.4.6. I note that a daylight, sunlight, and shadow assessment report was submitted as part of the application. Having carried out a site visit, reviewed the planning application drawings and documentation and noting the scale, height, and location of the proposed development, in the context of the adjoining developments and the separation distances of the proposed apartment development and the nearest adjoining residential units, I do not consider that the proposed development would contribute to significant overshadowing of the adjoining properties in Marina Village.
- 7.4.7. In terms of loss of light, noting the aforementioned separation distances, I do not consider that the proposed development would result in a significant loss of light to the adjoining site to the northeast.

Loss of view

- 7.4.8. There are no protected views being interfered with by the proposed development. The appellants are not entitled to the preservation of a view in the circumstances. I also acknowledge that under the planning system neighbours typically do not have a right to a view. During my site visit, I observed the existing relationship between the site and the appellants development, in particular several apartment blocks within Tuskar Courtyard. Any re-development on this subject site has the potential to impact on the existing view currently enjoyed by the adjoining residents. Notwithstanding, as noted in the forgoing, I would not recommend refusal on the grounds of impact on views or in relation to the impact on the visual amenities of the area.
- 7.4.9. Therefore, I am satisfied that the proposed development will not detract from or impact negatively upon adjoining residential or visual amenity.

7.5. Construction Impact

- 7.5.1. The appellant raised observations in relation to the requirement for a comprehensive site construction management plan and the hours site works during normal working hours.
- 7.5.2. The Chief Executive Order to grant permission includes conditions (Condition 7 (a), (b) and Condition 8) in respect of a detailed Construction/demolition management plan, for written agreement of the Council, and site development hours.

7.5.3. I am satisfied that matters pertaining to construction management can be appropriately dealt with prior to construction by way of condition should the Board be inclined to grant planning permission in this instance and requesting the Applicant to prepare/submit a Construction Management Plan and including a standard condition in respect of site development works.

7.6. Appropriate Assessment

7.6.1. I have considered the application for the demolition of the existing three storey detached office building and single storey outbuilding and the construction of a new five storey apartment block comprising of 34 No. apartments, ESB substation and switch room; waste storage areas; plant; car and bicycle parking; SUDs (including green roof); associated hard and soft landscaping; the creation of 2 No. new entry/egress points off North Quay and all associated site works in light of the requirements S177U of the Planning and Development Act 2000 as amended.

7.6.2. The subject site is located an approximate distance from the following Natura 2000 Sites:

- Buckroney-Brittas Dunes and Fen SAC, located approximately 4.9km to the north.
- Kilpatrick Sandhills SAC is situated approximately 6.5km to the south.

7.6.3. As noted in the forgoing, the proposed development comprises the demolition of the existing buildings, construction of 34 apartments and all associated site works.

7.6.4. No nature conservation concerns were raised in the planning appeal.

7.6.5. Having considered the nature, scale, and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- Nature of works comprising the demolition of existing buildings, construction of 34 apartments and all associated site works.
- The location and distance from nearest European site and the lack of any hydrological connectivity between the application site and the SAC/SPA.
- Taking into account the AA submitted by the applicant and the screening report/determination by Planning Authority.

7.6.6. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

7.6.7. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act, 2000) is not required.

7.7. Other Matters

7.7.1. Form, Layout and Amenity

While not specifically raised within the appeal, I note that the proposed 34 no. residential units achieve a good standard of living accommodation, are of acceptable floor areas, with storage and dedicated private amenity space provided to each unit which meets the required standards. As such, I am satisfied that the proposed residential units will provide a good standard of residential amenity for future intended occupiers.

7.7.2. Conditions:

As noted in Section 3.1.1 of the foregoing, the local authority recommended a grant of permission subject to 16 no. conditions.

Notwithstanding the above assessment, the conditions are considered to be standard and given the nature and scale of the proposed development, I concur with the local authority and recommend the inclusion of standard conditions in this instance.

8.0 Recommendation

8.1. I recommend that planning permission should be granted, subject to conditions, as set out below, for the following reasons and considerations.

9.0 Reasons and Considerations

9.1. Having regard to the 'Waterfront' zoning which applies to the site under the Arklow and Environs Local Area Plan, under which residential development is stated to be generally acceptable in principle, subject to the conditions set out below the proposed development would be an appropriate form of development on this existing

brownfield site, would align with the policies and objectives of the Wicklow County Development Plan and National Planning Guidance, would not seriously injure the waterfront character and visual amenities of the area, by reasons of height and form, would not seriously injure the amenities of the adjoining residential property in the vicinity by reason of overlooking, overshadowing or overbearing, and would be acceptable in terms of traffic and pedestrian safety. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted to the local authority on the 28th day of July 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units,</p>

	<p>in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.</p> <p>Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.</p>
3.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended], unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Bord Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.</p>
4.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p>

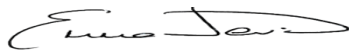
	Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.
5.	<p>Site development and building works shall be carried out only between the hours of 0700 and 1800 Mondays to Fridays inclusive, between 0800 to 1300 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the amenities of properties in the vicinity.</p>
6.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads during the course of the works.</p> <p>Reason: To protect the amenities of the area.</p>
7.	<p>Prior to the commencement of development, the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.</p> <p>Reason: In the interest of public health and to ensure adequate water/wastewater facilities.</p>
8.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health and surface water management.</p>
9.	<p>Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the</p>

	<p>developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
10.	<p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p>Reason: In the interest of visual amenity.</p>
11.	<p>All the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of sustainable transportation.</p>
12.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including details of the proposed demolition of the existing building on site, construction parking, hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
13.	<p>The landscaping scheme shown on Landscape Sections drawing number 3, as submitted to the planning authority on the 14th day of April, 2023 shall be carried out within the first planting season following substantial completion of external construction works.</p> <p>All planting shall be adequately protected from damage until established.</p> <p>Any plants which die, are removed, or become seriously damaged or</p>

	<p>diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>
14.	<p>Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.</p> <p>Reason: In the interest of public safety and visual amenity.</p>
15.	<p>The developer shall pay to the planning authority a financial contribution of in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
16.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in</p>

	<p>connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion of the development.</p>
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.



Emma Nevin
Planning Inspector

21st October 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	317937-23			
Proposed Development Summary	Demolition of existing buildings, construction of 34 apartments and all associated site works			
Development Address	Arklow Shipping premises, North Quay, Arklow, Co Wicklow			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X	
		No		
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes	X	Urban Development – 34 residential apartments	EIA Mandatory EIAR required	
No				
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes	X	Urban Development – 34 residential apartments		

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Appendix 1 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	317937-23	
Proposed Development Summary	Demolition of existing buildings, construction of 34 apartments and all associated site works.	
Development Address	Arklow Shipping premises, North Quay, Arklow, Co Wicklow	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>Proposal for permission to demolish the existing buildings on site, and the construction of 34 apartments and all associated site works on waterfront zoned land located in an urban area. However, the proposal is not considered exceptional in the context of the existing urban environment.</p> <p>No, the proposal will be connected to existing services.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>The proposed floor area is stated at 2,459 sq. m. however the existing buildings on site are to be demolished (676 sq. m.). The proposal is not considered exceptional in the context of the existing urban environment.</p> <p>There are no other developments under construction in the proximity of the site.</p>	No
Location of the Development	The appeal site is not located within any designated European Site however the site is an approximate distance from the following Natura	No

<p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>2000 Sites:</p> <ul style="list-style-type: none"> • Buckroney-Brittas Dunes and Fen SAC, located approximately 4.9km to the north. • Kilpatrick Sandhills SAC is situated approximately 6.5km to the south. <p>Therefore, it is not considered that the development would have a significant impact on the ecological site.</p> <p>The other nearest European sites are located above 13km from the site and therefore can be excluded in terms of the potential for effects on other European sites during construction and operational phases of the proposed development.</p>	
<p style="text-align: center;">Conclusion</p> <p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: 

Date: 21/10/2024

DP/ADP: _____ Date: _____
(only where Schedule 7A information or EIAR required)